IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.820 OF 2002

The Commissioner of Income Tax,
Mumbai city X, Mumbai .. Appellant

v/s.

M/s. Godrej and Boyce Mfg.Co.Ltd. .. Respondent

Mr.R.Asokan i/by Mr.K.B.Rao for appellant.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 22nd September, 2004

P.C.

Heard.

2. In the memorandum of appeal, two questions have been proposed which read thus-

"(a) Whether on the facts and in the circumstances of the case and in law, the Tribunal is correct in allowing the appeal of the assessee and setting aside the orders of the assessing officer and CIT(A) while holding that the sales tax and excise duty do not form part of the total turnover to consider the profits and loss accounts for the purpose of section 80 HHC of the Income Tax Act?

(b) Whether on the facts and in the circumstances of the case and in law, the Tribunal is correct in holding that the unutilised Modvat credit standing to the credit of the assessee is not includable in the closing stock of the profit and loss A/c. of the assessee while determining the taxable income?"

2. In so far as question (a) is concerned, it stands concluded by the Division Bench judgment of this court in the case of Commissioner of Income Tax v. Sudarshan Chemicals Industries Ltd., 245 ITR 769.

3. The learned counsel for the revenue submits that the said judgment is under chalenge before the Supreme Court.

4. Even if that be so, in so far as we are concerned, the issue stands concluded by the Division Bench Judgement of this court.

5. In so far as question (b) is concerned, the controversy stands concluded by the judgment of the Supreme Court in the case of Commissioner of Income Tax v. Indo Nippon Chemicals Co.Ltd., 261 ITR 275.

6. No substantial question of law arises in this appeal. Dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)